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SUBJECT: ZUMA CO-CONSPIRATOR LOSES LAST APPEAL FOR FREEDOM

REF: PRETORIA 4593

Classified By: Deputy Chief of Mission Don Teitelbaum. Reasons 1.4 (b)

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¶1. (U) Schabir Shaik's application to appeal his 15-year sentence for corruption and fraud was dismissed on 02 October by the Constitutional Court. In his appeal, Shaik's attorneys argued that the trial was unfair because the State did not charge him together with ANC Deputy President Jacob Zuma, that certain search and seizures were illegal, that the former National Director of Public Prosecutions at the time of his arrest (Bulelani Ncguka) was guilty of misconduct, and that the media had undue influence over the Supreme Court of Appeal's decision to uphold the conviction. (NOTE: In November 2006, Shaik lost his appeal to the Supreme Court of Appeal (reftel). END NOTE) The Constitutional Court came to a unanimous decision and dismissed all counts, adding that, "the suffering of discrimination is not a general excuse for crime committed after the dawn of democracy." The court also noted that there may be a constitutional issue, but only related to the seizure of Shaik's assets. The court granted permission to appeal on that point.

¶2. (C) COMMENT. Today's court ruling effectively closes the door on the highly publicized case of Schabir Shaik. Shaik's only remaining avenue would be a presidential pardon.

¶3. (C) COMMENT CONT'D: Shaik's defeat today does not necessarily mean the National Prosecuting Authority will automatically prosecute Zuma for related corruption charges. However, it adds some pressure to move forward given what is now indisputable evidence against Zuma's co-conspirator. Such criminal charges may not soften Zuma's support among his core constituents, many of whom believe he has always been a victim of a political conspiracy, nor would they necessarily eliminate Zuma from the ANC succession battle, since a trial could never be concluded before the ANC's national conference in December. However, the potential of electing a party president who may be found guilty of criminal conduct complicates the succession race and may send more ANC elites in search of a compromise candidate. END COMMENT.
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